IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR

MISC. CIVIL APPLICATION NO.211 OF 2006
IN
SECOND APPEAL NO. 117/2005.

(Hiraman Shankar Shirsat Vs. Balkrushna Ramchandra Wasnik & Oth.)

Office Notes, Office Memoranda of Coram, appearances, Court's orders or directions and Registrar's orders.	Court's or Judge's orders

Shri V.A. Kothale, Advocate for Applicant/Appellant.

CORAM : R.C.CHAVAN, J.

DATED : JULY 02, 2007.

1. Heard learned counsel Mr. Kothale for the applicant/ original appellant.

2. Grounds raised in this application for review do not indicate that review can be entertained. The party has right to take a view that the judgment rendered by this Court is not correct. In that case remedy would lie by preferring appeal. Grounds for review are extremely limited. There is no discovery of any new material which could have been placed by the party before this Court when the second appeal was first dismissed. Further the second appeal was dismissed mainly because the substantial questions of law formulated in the memo of appeal did not qualify to be questions of law much

less substantial questions. The learned counsel for the applicant submits that question No.2 formulated in the memo of appeal in fact did qualify to be a substantial question of law. He submitted that appreciation of evidence is not always pure question of facts and can be question of law and for that purpose he relies on the judgment in case of *Gurdev Kaur Vs. Kaki*, reported at **(2007) 1 SCC 546**. The observation in paragraph 53, on which the learned counsel wants to place reliance, do not apply to the case at hand because it is not that this Court has substituted its own findings on re-appreciation of evidence. This Court has only confirmed findings recorded by the District Judge upon re-appreciation of evidence. Since District Court is final Court on fact, it has power to re-appreciate the facts, rather it is under duty to record its findings on facts upon re-appreciation. Therefore, this decision is unhelpful to the applicant. Since there are no grounds why review should be entertained, the application is, therefore, rejected.

JUDGE.

RR.